

§ 752.11

15 CFR Ch. VII (1–1–07 Edition)

approved reexport territory, you must submit to BIS Form BIS-752 and Form BIS-752-A. You cannot add and delete countries on the same forms. Upon review of the change in reexport territory, BIS will return to the SCL holder two validated copies of Form BIS-752 and Form BIS-752-A.

(i) *Form BIS-752*. Complete Block 1. Complete Block 3 by marking “change an existing consignee”. In Block 4, enter the consignee name and consignee number. In Block 5, enter the SCL number. Complete Block 10 and the SCL holder signature block information.

(ii) *Form BIS-752-A*. Complete Blocks 1, 2, 3, and 5. Mark each country that you are removing from the reexport territory with an “x”. Mark an “x” in “Other Specify” and insert “delete”.

(5) *Remove items from your SCL*. The following procedures apply if you remove an item from your SCL. After review of the change by BIS, BIS will send you a validated Form BIS-748P and Form BIS-748P-A, if applicable. The SCL holder must send a copy of each validated form to all applicable consignees and attach a copy to their BIS-752.

(i) *Removing one item*. You must submit to BIS Form BIS-748P if you remove a single item from your SCL. Complete Blocks 1, 2, 3 and 5. Mark “Special Comprehensive License” in Block 5 and mark “other” in Block 8. Include your SCL number in Block 9. State “delete ECCN” in Block 24. Complete items (a) and (j) in Block 22 and Block 25.

(ii) *Removing more than one item*. You must submit to BIS Form BIS-748P and Form BIS 748P-A if you remove more than one item from your SCL. Complete Form BIS-748P according to the instructions in paragraph (a)(5)(i) of this section, except in Block 24, state “delete ECCNs on attached BIS-748P-A”. Complete Form BIS 748P-A by including the “application control number” (found on Form BIS-748P) in Block 1. Complete items (a) and (j) in Block 22 for each item you are removing from your SCL.

(6) *Remove end-users from your SCL*. You must submit to BIS Form BIS-752 if you remove end-users from consignee authorizations. (Use Form BIS-748P-B,

if additional space is needed.) After review by BIS, BIS will return to the SCL holder two validated copies of Form BIS-752 and Form BIS-748P-B, which will include any special instructions that may be necessary. You must send one copy of Forms BIS-752 and BIS-748P to the relevant consignee.

(i) *Form BIS-752*. On Form BIS-752, complete Block 1 and 3.B, “change an existing consignee”. Include the consignee number in Block 4. Include the SCL case number in Block 5. In Block 9, include the phrase “to remove an end-user(s)” followed by the name/address information. Complete Block 10 and the SCL holder signature Block information.

(ii) *Form BIS-748P-B*. If there was not enough space on Form BIS-752, Block 9, you may continue the information on Form BIS-748P-B, in Block 24. Complete the information in Block 1. Do not complete Block 19. Block 19 is only used to add end-users.

(d) *Changes made by BIS*. If BIS revises or adds an ECCN to the CCL, or a country’s eligibility already covered by the SCL changes, BIS will publish the change in the FEDERAL REGISTER. The SCL holder is responsible for immediately complying with any changes to the scope of the SCL.

[62 FR 25464, May 9, 1997]

§ 752.11 Internal Control Programs.

(a) *Scope—(1) Introduction*. It is through Internal Control Programs (ICPs) that the SCL holder and the consignee assure that exports and reexports are not made contrary to the EAR. The elements of your ICP will reflect the complexity of the activities authorized under the SCL, the countries and items involved, and the relationship between the SCL holder and the approved consignees.

(2) *General requirements*. Prior to making any exports and reexports under an SCL, you and your consignees, when required, must implement an ICP that is designed to ensure compliance with the SCL and the EAR. This section provides an overview of the elements that comprise an ICP. You may obtain from BIS at the address found in § 752.17 of this part guidelines to assist you in developing an adequate ICP. You must submit

with your application for an SCL a copy of your proposed ICP, along with any consignee ICPs, when required, incorporating the elements described in this section, as appropriate. BIS may require you to modify your ICP depending upon the activities, items, and destinations requested on your application for an SCL.

(b) *Requirements.* You may not make any shipments under an SCL until you and your consignees, when appropriate, implement all the elements of the required ICP. If there are elements that you consider inapplicable, you must explain the reasons for this determination at the time of application for an SCL. Existence of a properly constructed ICP will not relieve the SCL holder of liability for improper use or failure to comply with the requirements of the EAR.

(c) *Elements of an ICP.* Following is a list of ICP elements. The specific elements that should be included in your ICP depend upon the complexity of the activities authorized under your SCL, the countries and items involved, and the relationship between the SCL holder and the approved consignees.

(1) A clear statement of corporate policy communicated to all levels of the firm involved in exports and reexports, traffic, and related functions, emphasizing the importance of SCL compliance;

(2) Identification of positions (and maintenance of current list of individuals occupying the positions) in the SCL holder firm and consignee firms responsible for compliance with the requirements of the SCL procedure;

(3) A system for timely distribution to consignees and verification of receipt by consignees of regulatory materials necessary to ensure compliance with the EAR;

(4) A system for screening transactions to prevent violations of orders denying export privileges under the EAR;

(5) A system for assuring compliance with items and destination restrictions, including controls over reexports by consignees and direct exports to consignee customers;

(6) A compliance review program covering the SCL holder and extending to all consignees;

(7) A system for assuring compliance with controls on exports and reexports of nuclear items and to nuclear end-uses described in §§ 742.3 and 744.2 of the EAR;

(8) An on-going program for informing and educating employees responsible for processing transactions involving items received under the SCL about applicable regulations, limits, and restrictions of the SCL;

(9) A program for recordkeeping as required by the EAR;

(10) An order processing system that documents employee clearance of transactions in accordance with applicable elements of the company ICP;

(11) A system for monitoring in-transit shipments and shipments to bonded warehouses and free trade zones;

(12) A system for notifying BIS promptly if the SCL holder knows that a consignee is not in compliance with terms of the SCL;

(13) A system to screen against customers who are known to have, or are suspected of having, unauthorized dealings with specially designated regions and countries for which nonproliferation controls apply;

(i) The signs of potential diversion that you should take into consideration include, but are not limited to, the following:

(A) The customer or purchasing agent is reluctant to offer information about the end-use (or end-user) of a product.

(B) The product's capabilities do not fit the buyer's line of business; for example, a small bakery places an order for several sophisticated lasers.

(C) The product ordered is incompatible with the technical level of the country to which the product is being shipped. For example, semiconductor manufacturing equipment would be of little use in a country without an electronics industry.

(D) The customer has little or no business background. For example, financial information unavailable from normal commercial sources and corporate principals unknown by trade sources.

(E) The customer is willing to pay cash for a very expensive item when the terms of the sale call for financing.

§ 752.12

(F) The customer is unfamiliar with the product's performance characteristics but still wants the product.

(G) Routine installation, training or maintenance services are declined by the customer.

(H) Delivery dates are vague, or deliveries are planned for out-of-the-way destinations.

(I) A freight forwarding firm is listed as the product's final destination.

(J) The shipping route is abnormal for the product and destination.

(K) Packaging is inconsistent with the stated method of shipment or destination.

(L) When questioned, the buyer is evasive or unclear about whether the purchased product is for domestic use, export, or reexport.

(M) Customer uses only a "P.O. Box" address or has facilities that appear inappropriate for the items ordered.

(N) Customer's order is for parts known to be inappropriate, or for which the customer appears to have no legitimate need (e.g., there is no indication of prior authorized shipment of system for which the parts are sought).

(O) Customer is known to have, or is suspected of having unauthorized dealings with parties and/or destinations in ineligible countries.

(ii) When any of the above characteristics have been identified, but through follow-up inquiries or investigation have not been satisfactorily resolved, the consignee should not transact any business with the customer under the SCL. Apply for a license according to part 748 of the EAR. You should explain the basis for the concern regarding the proposed customer, and state that you are an SCL consignee. Also, cite the SCL number, and your consignee number;

(14) A system for assuring compliance with controls over exports and reexports for missile-related end-uses and end-users described in § 744.3 of the EAR;

(15) A system for assuring compliance with control over exports and reexports of chemical precursors and biological agents and related items and end-uses

15 CFR Ch. VII (1-1-07 Edition)

described in §§ 742.2 and 744.4 of the EAR;

[61 FR 12835, Mar. 25, 1996, as amended at 62 FR 25466, May 9, 1997; 70 FR 8719, Feb. 23, 2005]

§ 752.12 Recordkeeping requirements.

(a) *SCL holder and consignees.* In addition to the recordkeeping requirements of part 762 of the EAR, the SCL holder and each consignee must maintain copies of manuals, guidelines, policy statements, internal audit procedures, reports, and other documents making up the ICP of each party included under an SCL and all regulatory materials necessary to ensure compliance with the SCL, such as relevant changes to the EAR, product classification, additions, deletions, or other administrative changes to the SCL, transmittal letters and consignee's confirmations of receipt of these materials. Each SCL holder and each consignee must maintain a record of its procedures for screening transactions to prevent violations of orders denying export privileges.

(b) *SCL holder.* The SCL holder is responsible for complying with the special reporting requirements for exports of certain commodities, software and technology under the Wassenaar Arrangement as described in § 743.1 of the EAR.

(c) *Consignees.* All consignees must retain all records of the types of activities identified in § 752.2(a)(3) of this part. Records on such sales or reexports must include the following:

(1) Full name and address of individual or firm to whom sale or reexport was made;

(2) Full description of each item sold or reexported;

(3) Units of quantity and value of each item sold or reexported; and

(4) Date of sale or reexport.

[61 FR 12835, Mar. 25, 1996, as amended at 66 FR 461, Jan. 3, 2002; 70 FR 8719, Feb. 23, 2005]

§ 752.13 Inspection of records.

(a) *Availability of records.* You and all consignees must make available all of the records required by § 752.12 of this part and § 762.2 of the EAR for inspection, upon request, by BIS or by any